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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,204	09/16/2003	Suzuko Fukao	CFA00009US	1377
34904 7590 10/31/2007 CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION 15975 ALTON PARKWAY IRVINE, CA 92618-3731			EXAMINER LAY, MICHELLE K	
			ART UNIT 2628	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/664,204

Applicant(s)

FUKAO ET AL.

Examiner

Michelle K. Lay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,6,8-12,17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,8-12,17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed 10/11/2007 has been entered and made of record. The amendment to claims 12, 17, and 19 has overcome the 35 USC 101 rejection made in the Non-Final office action filed 06/11/2007. The 35 USC 112 1<sup>st</sup> paragraph rejection made in the Non-Final office action filed 06/11/2007 is not withdrawn. Further clarification is made below. The 35 USC 112 2<sup>nd</sup> paragraph rejection made in the Non-Final office action filed 06/11/2007 is withdrawn. Claims 2-5, 7, 13-16, and 18 have been cancelled. Claims 1, 6, 8-12, 17, and 19-22 are pending.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 6, 8-12, 17, and 19-22 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

### ***Information Disclosure Statement***

The information disclosure statement(s) (IDS) submitted on 10/11/2007 is being considered by the examiner.

### ***Specification***

The amendment filed 10/11/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no

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amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Amended paragraphs [0008, 0034] introduce original color values. Is the original color value the image data from the source (e.g., scanner, digital camera, etc.?) and if so, is the image data prior to compression schemes or the raw image data? Or is the original color data the data also known as the first color value? (see 112 2<sup>nd</sup> paragraph rejection in regards to claim 1)

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Drawings***

The drawings were received on 10/11/2007. These drawings are acceptable.

The drawings are objected to because in regards to amended Fig. 5, S102 now recites, "Achromatic Color prior to smoothing?" However, it is unclear how the image data can be checked if it contains achromatic color prior to smoothing, if S101 smoothes the image data with reference to surrounding colors.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show S103 of Fig. 5, as described in the specification. Specifically [0034] recites, "in step 103, if the RGB value after smoothing deviates from the achromatic axis, it is adjusted so that the RGB value after smoothing is returned to a value on the achromatic axis." However, S103 illustrated in Fig. 5 only recites "project onto achromatic axis," and fails to mention a smoothing step at all. Any structural detail that is essential for a proper

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understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 6, 8-12, 17, and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In regards to claims 1, 6, 8, and 9, independent claim 1 recites, "in the event that the first color value does not correspond to achromatic color due to the smoothing and the original color value corresponding to the first color value is achromatic, adjusting the first color value to provide a second color value corresponding to the achromatic color," such is not supported in the disclosure. Referring to Fig. 5 and [0008, 0034], there is no comparison of the original color value with a first color value, let alone, as shown in Fig. 5, if the color value  $R=G=B$  holds, the color data is projected onto the achromatic axis. As stated in claim 1, if the first color value does not correspond to achromatic color, the colors are adjusted. Therefore, there is a discrepancy between the claim language and the disclosure. Additionally, Applicant's amended disclosure [0034] recites, "in Step S101, the smoothing unit (15) performs smoothing for the RGB values read out by the smoothing unit (15) ... in step S102, it is determined whether RGB value obtained after smoothing corresponds to an originally achromatic color, i.e., with the read RGB value prior to smoothing, the relations  $R=G=B$  holds. If this RGB value prior to smoothing is achromatic, the flow processed to Step S103." However, it is unclear how the comparison can be made if the image data is smoothed before the comparison of the image data prior to smoothing (S102). Furthermore, it is unclear why the process would

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project the image data onto the achromatic axis for adjustment when the relation of  $R=G=B$  holds, instead of when  $R \neq G \neq B$ . One would assume that when the relation  $R=G=B$  does not hold, the image data would be projected onto the achromatic axis for adjustment so that the RGB value is returned to a value on the achromatic axis.

In regards to claims 10-12, 17, 19-22, independent claims **10** and **12** recites, "a correction unit for adjusting the first color value into a second color value corresponding to achromatic color, in the event that the first color value does not correspond to achromatic color due to the smoothing, the correction unit ..." As with the rationale of claim 1 above, referring to Fig. 5 and [0008, 0034], if the color value  $R=G=B$  holds, the color data is projected onto the achromatic axis, where as stated in claims 10 and 12, if the first color value does not correspond to achromatic color, the colors are adjusted. Therefore, there is a discrepancy between the claim language and the disclosure. The same rationale as claim 1 holds for claims 10 and 12.

Claims 1, 6, 8-12, 17, and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claims 1, 10 and 12 are amended to recite "original color value". However, it is unclear what this original color value is. Although Applicant has amended the disclosure to include "original color value", no such mention of an "original color value" was described in the

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original disclosure. Is the original color value the image data from the source (e.g., scanner, digital camera, etc.?) and if so, is the image data prior to compression schemes or the raw image data? Or is the original color data the data also known as the first color value? (see 112 2<sup>nd</sup> paragraph rejection in regards to claim 1)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, 8, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "in the event that the first color value does not correspond to achromatic color due to the smoothing and the original color value corresponding to the first color value is achromatic, adjusting the first color value to provide a second color value corresponding to the achromatic color." It is unclear if the "original color value corresponding to the first color value" means the original color value *is* the first color value. If such is the case, it is unclear how the first color value does not correspond to achromatic color, but the original color value, which is also the first color value, *is* achromatic. There is a contradiction within the claim limitations.

Due to the severity of the 35 USC 112 1<sup>st</sup> and 2<sup>nd</sup> rejections, no prior art can be applied.



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***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

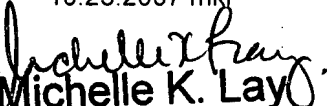
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle K. Lay whose telephone number is (571) 272-7661. The examiner can normally be reached on Monday-Friday 7:30a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee M. Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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